



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes

FFL MNRL

### Introduction

On August 31, 2018 the Landlord submitted an Application for Dispute Resolution (the "Application"), seeking relief pursuant to the *Residential Tenancy Act* (the "Act") for the following:

- a monetary order for unpaid rent or utilities;
- an order granting recovery of the filing fee.

The hearing was scheduled for 1:30 pm on December 18, 2018, as a teleconference hearing. Only the Landlord appeared at the hearing. No one called in for the Tenants. The conference call line remained open and was monitored for 14 minutes before the call ended.

The Landlord testified she served the Application package and documentary evidence to each of the Tenants via Canada Post Registered Mail to a PO Box address which had previously been provided to the Landlord by the Tenants. The Landlord provided copies of the Register Mail receipts confirming these mailings. In the absence of evidence to the contrary, and pursuant to section 71 of the Act, I find the Application package and documentary evidence were sufficiently served on the Tenants for the purposes of the Act.

The Landlord was given the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

1. Is the Landlord entitled to a monetary order for unpaid rent or utilities?
2. Is the Landlord entitled to recover the filing fee?

### Background and Evidence

A copy of the tenancy agreement between the parties was submitted into evidence. It confirmed the tenancy began on April 4, 2018. Rent in the amount of \$1,100.00 per month was due on the fourth day of each month. The Tenants paid a security deposit in the amount of \$290.00, which the Landlord currently holds.

The Landlord testified the Tenants did not pay rent when due on August 4, 2018. Subsequently, the Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, dated August 6, 2018 (the "10 Day Notice"). At that time, rent in the amount of \$1,100.00 was outstanding. The Landlord states that the 10 Day Notice was severed on the Tenants via Canada Post Registered Mail on August 7, 2018. The Landlord provided a copy of the Registered Mail Receipt confirming this mailing.

The Landlord testified that the Tenants vacated the rental unit on September 3, 2018. As noted above, the Tenants did not attend the hearing to dispute the Landlord's evidence.

### Analysis

Based on the unchallenged and affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

The Landlord served the 10 Day Notice on the Tenants via Canada Post Registered Mail. Pursuant to sections 88 and 90 of the *Act*, documents served in this manner are deemed to be received 5 days later. I find the Tenants are deemed to have received the 10 Day Notice on August 12, 2018. Accordingly, pursuant to section 46(4) of the *Act*, the Tenants had until August 17, 2018, to either pay rent in full or dispute the 10 Day Notice by filing an application for dispute resolution. The Landlord testified the Tenants have not paid rent for August 2018 and have since vacated the rental unit on September 3, 2018. There is insufficient evidence before me to find that the Tenants disputed the 10 Day Notice. As a result, pursuant to section 46(5) of the *Act*, I find the Tenants are conclusively presumed to have accepted the tenancy ended on the effective date of the 10 Day Notice. Therefore, the Tenants were over holding.

Section 26(1) of the *Act* confirms:

*A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.*

I find the Landlord has established an entitlement to a monetary award for unpaid rent in the amount of \$1,100.00. Having been successful, I also find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application. Further, I find it appropriate in the circumstances to order that the Landlord is entitled to retain the security deposit held in partial satisfaction of the claim.

Pursuant to section 67 of the Act, I find the Landlord is entitled to a monetary order in the amount of \$910.00, which has been calculated as follows:

<b>Claim</b>	<b>Amount</b>
Unpaid rent:	\$1,100.00
Filing fee:	\$100.00
LESS security deposit:	(\$290.00)
<b>TOTAL:</b>	<b>\$910.00</b>

### Conclusion

The Landlord is granted a monetary order in the amount of \$910.00. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: December 19, 2018

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Residential Tenancy Branch